

I. PRELIMINARY STATEMENT

Plaintiff O'Connell, a sheriff's deputy with Onondaga County's Sheriff's Department , brings this action based upon his claims of disability discrimination and failure to accommodate after January 1, 2009, under the ADAAA and RA, as amended. Further, he brings claims of retaliation under the ADA and RA and breach of contract for discipline given him by Defendants after a state court confirmed arbitration award, and subsequent binding arbitration awards favorable to him were ignored and not followed.

II. DEFENDANT'S MOTION IN LIMINE TO PRECLUDE EVIDENCE DISMISSED ON SUMMARY JUDGMENT IS PREMATURE AND THERE SHOULD BE NO PRECLUSION OF EVIDENCE THAT COULD HAVE BEEN USED TO PROVE DISABILITY DISCRIMINATION PRIOR TO JANUARY 1, 2009

Plaintiff has not submitted any pre-trial filings attempting to resurrect any dismissed claims. Defendant's motion is premature and misplaced, and the cited case of Jones v. New York City Health and Hosp., 2003 WL 21262087 (S.D.N.Y) is inapposite.

However, Plaintiff would object to any preclusion of evidence that could have been used to prove disability discrimination prior to January 1, 2009, but remains relevant to other claims of the Plaintiff. For example, such evidence would be relevant and probative of Defendant's retaliation against Plaintiff.

Admission of such evidence would not unfairly prejudice Defendants, and would not confuse the jury. Any jury confusion would be cured by a limiting instruction.

III. CONCLUSION

For the foregoing reasons, the Court should deny Defendant's motion in its entirety.

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